

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

DEFAZIO, ET AL.	§	PLAINTIFFS
	§	
v.	§	CAUSE NO. 1:05CV412
	§	
MID-WEST NAT'L LIFE INS. CO. OF TENNESSEE, ET AL.	§	DEFENDANTS
	§	

ORDER DENYING DEFENDANT'S MOTION FOR RECONSIDERATION

BEFORE THE COURT is the Motion [29] of Defendant Mid-West National Life Insurance Company of Tennessee for reconsideration of the Court's Memorandum Opinion and Order remanding this case to the Circuit Court of Harrison County, Mississippi. Having reviewed the Motion, the record in this case, and the relevant legal authority, the Court finds that the Motion is not well-taken and should be denied.

Defendant requests that the Court reconsider its remand order for reasons which were presented in its response to the Plaintiffs' Motion to Remand. However, the Court "recognizes only three possible grounds for any motion for reconsideration: (1) an intervening change in controlling law, (2) the availability of new evidence not previously available, and (3) the need to correct a clear error of law or prevent a manifest injustice." *Nationwide Mutual Fire Ins. Co. v. Pham*, 193 F.R.D. 493, 494 (S.D. Miss. 2000)(citations omitted). A motion for reconsideration should not be used to relitigate old matters, raise new arguments, or submit evidence that should have been presented in earlier proceedings. *Karim v. Finch Shipping Co.* 111 F.Supp.2d 783, 784 (E.D.La. 2000).

Having reviewed the Motion, the undersigned is of the opinion that the Defendant has not established any of the three possible grounds for reconsideration. Therefore, the

Defendant's Motion for Reconsideration should be denied.

IT IS THEREFORE ORDERED AND ADJUDGED that Defendant's Motion for Reconsideration [29] should be and is hereby **DENIED**.

IT IS FURTHER ORDERED AND ADJUDGED that the Clerk of Court shall immediately send a certified copy of the Court's Order to Remand to the clerk of the state court.

SO ORDERED AND ADJUDGED this the 17th day of January, 2007.

s/ *Louis Guirola, Jr.*
LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE